

Exhibit A

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

RUTH SMITH, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

SUNPATH, LTD., a Massachusetts corporation,

Defendant.

Case No. 1:22-cv-00081-LMB-WEF

DECLARATION OF PATRICK H. PELUSO

I, Patrick H. Peluso, declare as follows:

1. I am an attorney with the law firm Woodrow & Peluso, LLC and counsel of record for Plaintiff Ruth Smith (“Plaintiff” or “Smith”).

2. On January 26, 2022, Plaintiff filed the instant action alleging wide-scale violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (“TCPA” or “Act”) and the Virginia Telephone Privacy Protection Act (“VTPPA”).

3. On August 5, 2022, the Court issued its initial scheduling order, which required all discovery to be completed on or before December 9, 2022, and set a final pretrial conference for December 15, 2022, at 10:00 a.m. (Dkt. 25.) The scheduling order also required the parties to submit a joint proposed discovery plan on or before August 24, 2022. (*Id.*)

4. On August 24, 2022, the parties filed a joint discovery plan, which set forth their respective positions regarding the case schedule. (Dkt. 27.)

5. On September 31, 2022, the Court issued a Rule 16(b) scheduling order, which set the following deadlines in this case.

- Discovery Cut-Off: December 9, 2022;
- Plaintiff's Expert Disclosure: October 10, 2022;
- Defendant's Expert Disclosure: November 9, 2022;
- Rebuttal Expert Disclosures: November 28, 2022; and
- Final Pretrial Conference: December 15, 2022, at 10:00 a.m.

(Dkt. 31.)

6. Since the commencement of discovery, Plaintiff has diligently worked to gather all necessary discovery.

7. On August 24, 2022, Plaintiff issued her first set of discovery requests on SunPath, including interrogatories and requests for production. SunPath requested an extension of its deadline to respond to the requests until October 7, 2022.

8. On August 29, 2022, SunPath issued its first set of discovery requests directed to Plaintiff, including interrogatories, requests for admission, and requests for production. Plaintiff served her objections to the requests on September 13, 2022, and her responses on September 28, 2022.

9. On August 24, 2022, Plaintiff also issued subpoenas to Testify at a Deposition in a Civil Action and a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action on Chukran Management Group, LLC d/b/a American Protection Corp. ("American Protection"). American Protection was identified as an agent of SunPath that likely placed, at least some, of the calls at issue to Plaintiff. The subpoena seeking documents specified a response date of September 16, 2022.

10. On September 16, 2022, Kobi Chukran, the president of American Protection, responded to the subpoena and produced documents reflecting a relationship with SunPath as well as documents evidencing written communications with Plaintiff. However, Mr. Chukran indicated that it possessed no records of any calls placed on behalf of SunPath. Instead, Mr.

Chukran claimed that the calls may have been placed by another company, American Vehicle Protection Corp. (“AVPC”).

11. In response, Plaintiff requested Mr. Chukran’s availability for a deposition and a call to discuss American Protection’s responses to the subpoena.

12. On September 23, 2022, Mr. Chukran responded and stated that he would only answer questions during a deposition.

13. On September 26, 2022, Plaintiff served a letter on American Protection outlining deficiencies in its responses to the subpoena. The letter also requested American Protection’s availability to discuss the deficiencies.

14. On September 30, 2022, Mr. Chukran responded, via email, and altered his prior response by illuding to the existence of some class records (but still refused to produce any documents). He also reiterated that he would discuss its responses to the subpoena at a deposition—which he stated could likely not take place until November.

15. On September 21, 2022, Plaintiff issued subpoenas to Testify at a Deposition in a Civil Action and a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action on AVPC.

16. Also on September 21, 2022, Plaintiff issued a Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action to Verizon Communications, Inc. The subpoena seeks to identify the subscriber(s) or user(s) of the telephone numbers that placed the calls to Plaintiff.

17. There also remains considerable discovery to be completed. Indeed, Plaintiff is working to schedule American Protection’s deposition. While Plaintiff is attempting to complete the deposition in October, Mr. Chukran has become unresponsive to requests for availability.

18. Plaintiff also anticipates filing an enforcement action against American Protection in the Southern District of Florida to compel a complete response to the subject subpoena. Because the deposition is necessary to establish a basis for her belief that it has withheld documents, Plaintiff cannot file the enforcement action until after the deposition has been completed.

19. On October 4, 2022, Plaintiff conferred with counsel for SunPath regarding the requested extension.

20. SunPath does not agree with Plaintiff's proposed schedule. Instead, SunPath proposed the following modification to the schedule:

- Discovery Cut-Off: November 15, 2022;
- Plaintiff's Expert Disclosure: November 30, 2022;
- Defendant's Expert Disclosure: December 21, 2022;
- Rebuttal Expert Disclosures: January 20, 2023;
- Plaintiff to file Motion for Class Certification: February 10, 2023;
- Defendant to file Opposition to Class Certification: March 3, 2023;
- Plaintiff to file Reply ISO Class Certification: March 17, 2023; and
- Final Pretrial Conference: To be determined.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 7, 2022, in Denver, Colorado.

By: /s/ Patrick H. Peluso

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